

AUG 25 2008

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August 22, 2008

BY HAND

Honorable Richard J. Sullivan
United States District Judge
Southern District of New York
500 Pearl St.
New York, NY 10007

MEMO ENDORSED

Re: Harris v. City of New York, et al., 07 CV 7894 (RJS)

Dear Judge Sullivan:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney for defendants City of New York ("City") and Warden Michael Hourihane in the above-referenced matter. I am writing in response to the Court's Order dated July 8, 2008, directing this office to "assist plaintiff in identifying the officers who came into contact with Harris as described in his complaint and his June 24 motion". As detailed below, this office is currently able to provide service information for two prospective defendants. However, with respect to the remaining defendants, this office respectfully requests that plaintiff provide more information, and that defendants be granted an additional 30 days from receipt of such information to identify the remaining defendants, to the extent possible.

As an initial matter, defendants respectfully note that the allegations in paragraph "II.D." of the amended complaint are difficult to discern.¹ It appears that plaintiff alleges, *inter alia*, that he was (1) subjected to an excessive use of force on January 1, 2006 in the Anna M. Kross Center, (2) subjected to an excessive use of force in the Spring of 2007 in the Anna M.

¹ Although the Court's July 8, 2008 Order notes that "[t]he Amended Complaint also references several other officers, including 'Officer Walker,' and other John Does", the copy of the amended complaint served upon this office does not appear to contain a reference to an "Officer Walker".

Kross Center, and (3) that he was unable to offer witnesses in a subsequent undated disciplinary hearing that appears to have no correlation to the first or second allegations. With respect to the first allegation, defendants respectfully note, on information and belief, that there is no record of an incident involving plaintiff on or about January 1, 2006. The second allegation appears to refer to a use of force allegation against Correction Officer Meadows on or about March 15, 2007. With respect to the third allegation, this office is unable to determine to which disciplinary hearing the amended complaint refers, as plaintiff has been incarcerated by the Department of Correction on multiple dates.

Accordingly, this office respectfully requests, with respect to plaintiff's first and third allegations, that plaintiff confirm or provide dates of incident. Additionally, it may be helpful if plaintiff provides the name under which he was incarcerated at the time of each alleged incident.²

Notwithstanding these issues, defendants are currently able to identify Correction Officer Meadows, Shield #11464 and Correction Officer Barnes, Shield #17927 as officers who may be involved in the incidents alleged in the amended complaint. These individuals may be served with a copy of the summons and amended complaint at the Anna M. Kross Center, 18-18 Hazen St., E. Elmhurst, NY 11370.

With respect to Officers Miller,³ Gaines, Bonilla, and Green, this office respectfully requests that plaintiff provide physical descriptions to the extent possible, such as the race and gender of the officers he intends to sue. On information and belief, there are multiple individuals with these surnames presently assigned to the Anna M. Kross Center. Although plaintiff has provided information regarding the officers' assignments at the facility, many of these officers' assignments have likely changed since early 2006.


In view of the foregoing, it is respectfully requested that the Court grant the within request extending the time for this office to respond to the Court's July 8, 2008 Order until 30 days after defendants receive the above-requested information from plaintiff.

² On information and belief, plaintiff has previously been incarcerated under the names Anthony Harris, Anthony Williams, Michael White and John Doe.

³ Although plaintiff's June 24, 2008 "Motion of Need to Compel Identification and Service" gives descriptions of three individuals named Miller at the Anna M. Kross Center, plaintiff has not identified which of the three he intends to sue. Additionally, on information and belief, there are more than three individuals with the surname Miller assigned to the Anna M. Kross Center.

Thank you for your consideration in this regard.

Respectfully submitted,



Bradford C. Patrick
Assistant Corporation Counsel
Special Federal Litigation Division

CC: BY MAIL

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Plaintiff Pro Se
Anna M. Kross Center
18-18 Hazen St.
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Plaintiff shall provide defendants with the additional information on or before September 19, 2008. Defendants shall then provide plaintiff with defendants' identities by October 20, 2008. Plaintiff shall amend his complaint by December 5, 2008.

SO ORDERED

Dated:

8/25/08

RICHARD J. SULLIVAN
U.S.D.J.

